

1 RAOUL D. KENNEDY (STATE BAR NO. 40892)
Raoul.Kennedy@skadden.com
2 RICHARD S. HORVATH, JR. (STATE BAR NO. 254681)
Richard.Horvath@skadden.com
3 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
525 University Avenue, Suite 1100
4 Palo Alto, California 94301
Telephone: (650) 470-4500
5 Facsimile: (650) 470-4570

6 PAUL M. ECKLES (STATE BAR NO. 181156)
Paul.Eckles@skadden.com
7 SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
4 Times Square
8 New York, New York 10036
Telephone: (212) 735-3000
9 Facsimile: (212) 735-2000

10 Attorneys for Specially Appearing Defendant
HARPERCOLLINS PUBLISHERS L.L.C.

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 ANTHONY PETRU and MARCUS MATHIS,
15 Individually and on Behalf of All Others Similarly
Situating,

16 Plaintiffs,

17 vs.

18 APPLE INC.; HACHETTE BOOK GROUP, INC.;
19 HARPERCOLLINS PUBLISHERS, INC.;
MACMILLAN PUBLISHERS, INC.; PENGUIN
GROUP (USA) INC.; and SIMON & SCHUSTER,
INC.,

20 Defendants.

CASE NO. 3:11-CV-03892-EMC

21 CHAD MILLER and GRACE HOKE, Individually
22 and on Behalf of All Others Similarly Situated,

23 Plaintiffs,

24 vs.

25 HACHETTE BOOK GROUP, INC.; HARPER
COLLINS PUBLISHERS, INC.; MACMILLAN
PUBLISHERS, INC.; PENGUIN GROUP (USA)
26 INC.; SIMON & SCHUSTER, INC., and APPLE
INC.

27 Defendants.
28

CASE NO. 3:11-CV-05019-SC

**DECLARATION OF RICHARD S.
HORVATH, JR. IN SUPPORT OF
THE ADMINISTRATIVE MOTION
TO RELATE CASES**

1 I, Richard S. Horvath, Jr. declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am an
3 associate at the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, attorneys for specially
4 appearing defendant HarperCollins Publishers L.L.C. (incorrectly sued herein as "HarperCollins
5 Publishers, Inc.") in all of the above-captioned matters. I submit this Declaration in Support of
6 HarperCollins' Administrative Motion To Relate Cases (the "Administrative Motion"). Unless
7 otherwise stated, I have personal knowledge of the facts set forth below and, if called as a witness,
8 I could and would testify competently thereto.

9 2. On August 9, 2011 a complaint was filed in *Petru, et al. v. Apple, Inc., et al.* (11-cv-
10 3892 N.D. Cal.) (the "*Petru* Action"). A true and correct copy of the complaint filed in the *Petru*
11 Action is attached hereto as Exhibit A.

12 3. On September 2, 2011, Hon. Edward M. Chen issued an order relating *Diamond v.*
13 *Apple, Inc., et al.* (11-cv-3954 N.D. Cal.); *Gilstrap, et. al. v. Apple, Inc., et al.* (11-cv-4035 N.D.
14 Cal.); and *Albeck v. Apple, Inc., et al.* (11-cv-4110 N.D. Cal.) to the *Petru* Action.

15 4. On October 5, 2011, Hon. Edward M. Chen issued an order relating *Key v. Apple,*
16 *Inc., et al.* (11-cv-04754 N.D. Cal.) to the *Petru* Action.

17 5. On October 11, 2011, a complaint was filed in *Miller, et. al. v. Hachette Group*
18 *Book Inc., et al.* (Case No. 3:11-cv-05019-SC N.D. Cal.) (the "*Miller* Action"). A true and correct
19 copy of the complaint filed in the *Miller* Action is attached hereto as Exhibit B.

20 6. On October 13, 2011, Hon. Edward M. Chen issued an order relating *Ruane-*
21 *Gonzales v. Apple, Inc., et al.* (11-cv-4500 N.D. Cal.) to the *Petru* Action.

22 7. On October 31, 2011, Hon. Edward M. Chen issued an order relating *Rivers v.*
23 *McMillan, et. al.* (11-cv-05080 N.D. Cal.) to the *Petru* Action.

24 8. On November 2, 2011, Renae Diane Steiner of the law firm Heins Mills & Olson,
25 P.L.C., counsel for plaintiffs Chad Miller and Grace Hoke in the *Miller* Action (together,
26 "Plaintiffs"), informed me that Plaintiffs would not oppose a motion to relate the *Miller* Action to
27 the *Petru* Action, but that Plaintiffs would file such a motion themselves.

1 9. On November 3, 2011, Plaintiffs filed in the *Miller* Action an Administrative
2 Motion To Consider Whether Cases Should Be Related ("Plaintiffs' Motion"), a true and correct
3 copy of which is attached hereto as Exhibit C.

4 10. On November 4, 2011, the Court's docket in the *Miller* Action reflected that counsel
5 for Plaintiffs was to re-file Plaintiffs' Motion in the *Petru* Action for Hon. Edward M. Chen's
6 consideration. To the best of my knowledge, and as reflected by the docket in the *Petru* Action,
7 Plaintiffs have not re-filed Plaintiffs' Motion in the *Petru* Action.

8 11. On November 8, 2011, Hon. Edward M. Chen issued an order relating *Rossman, et*
9 *al. v. Apple, Inc., et al.* (11-cv-04191 N. D. Cal.) to the *Petru* Action.

10 12. On November 14, 2011, Hon. Edward M. Chen issued an order relating *Ulbee v.*
11 *Apple, Inc., et al.* (11-cv-4490 N.D. Cal.) to the *Petru* Action.

12 13. Defendants to the *Miller* Action have informed me they do not oppose the relation
13 of the *Miller* Action to the *Petru* Action.

14 I declare under penalty of perjury that the foregoing facts are true and correct and that this
15 declaration was executed on this eighteenth day of November, 2011, in Palo Alto, California.

16
17 By: 

Richard S. Horvath, Jr.